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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 **MICHAEL DUNN,**

14 Plaintiff,

15 v.

16 **STATE OF CALIFORNIA,**

17 Defendant.
18
19

Case No: 3:07-CV-04267 EMC

**NOTICE OF MOTION AND MOTION
TO DISMISS; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Hearing: November 21, 2007
Time: 10:30 a.m.
Courtroom: C - 15th Floor.
Judge: The Honorable
Edward M. Chen

20 **TO: PLAINTIFF MICHAEL DUNN, APPEARING IN PRO PER:**

21 PLEASE TAKE NOTICE that on November 21, 2007 at 10:30 a.m., or as soon
22 thereafter as the matter may be heard by this Court, located at the United States Courthouse,
23 450 Golden Gate Avenue, San Francisco, CA 94102-3483, before the Honorable Magistrate
24 Judge Edward M. Chen, defendant State of California will move, pursuant to Rules 12(b)(1) and
25 12(b)(6) of the Federal Rules of Civil Procedure for an order dismissing this case without leave
26 to amend, or in the alternative, pursuant to Rule 12(e) for a more definite statement.

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**NOTICE OF MOTION AND MOTION TO DISMISS; MEMORANDUM
OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

Dunn, Michael v. State of California
3:07-CV-04267 EMC

1 Defendant State of California moves to dismiss the complaint on the following
2 grounds: (1) this Court lacks jurisdiction over the subject matter because plaintiff does not have
3 standing to allege a "case or controversy" under Article III of the United States Constitution;
4 (2) this Court lacks jurisdiction because the Eleventh Amendment to the United States
5 Constitution grants defendant State of California sovereign immunity from suit in federal court;
6 and (3) the Complaint fails to state a claim upon which relief can be granted.

7 This motion is based upon this notice of motion and motion, the memorandum of
8 points and authorities, and the pleadings, orders, memoranda, exhibits and other documents
9 already on file in this action.

10 Dated: October 5, 2007

11 Respectfully submitted,

12 EDMUND G. BROWN JR.
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